

The American Recovery and Reinvestment Tax Act of 2009 (ARRTA)
“Division B” of American Recovery and Reinvestment Act of 2009 (ARRA) –
Public Law No. 111-5

SUMMARY OF BOND PROVISIONS

As a means of providing economic stimulus, ARRTA:

- Provides for the use of new tax credit bonds as alternative means of financing projects that are typically financed with traditional tax-exempt bonds issued by state and local governments.
- Expands certain tax credit programs already in place, and
- Introduces measures to improve the marketability of tax-exempt bonds.

The bond provisions provided in ARTTA are summarized in the pages that follow.

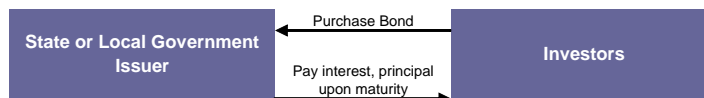
INTRODUCTION

State and local governments sell bonds to finance public projects and certain qualified private activities. Most of the bonds issued are tax-exempt bonds, which means that the interest payments are not included in the bondholder’s taxable income. Because of the difference in taxability, state and local government tax-exempt (municipal) bonds offer a lower interest rate than corporate bonds. The federal government is, in effect, providing a subsidy for projects that use tax-exempt financing.

Public projects financed with bonds include schools, roads and bridges, water and wastewater systems, and police and fires stations.

Tax credit bonds provide another form of federal subsidy designed to benefit state and local governments. These bonds derive federal subsidy in the form of “payments”, or tax credits, made either directly to the issuer to reduce taxable interest costs or to the investor to reduce income tax liability.

Traditional Municipal Bonds



Tax Credit Bonds



The summary information provided below is for quick reference only. Issuers should consult with their bond counsel and financial advisor to determine their eligibility and for advice on the appropriateness of the described bonds for an issuer’s particular situation. Investors should consult with

BUILD AMERICA BONDS (BABs) – DIRECT PAYMENT	
Who can issue these bonds?	Any state or local government; cannot be for private activity and cannot be for not-for-profits
What can they be used for?	For new governmental capital expenditure; cannot be for refunding outstanding bonds; cannot be for working capital
How are they subsidized by the feds?	Issuer sells taxable bonds and the US Treasury pays the issuer 35% of the interest cost when due. (See example on next page)
What are the benefits?	The issuer's interest cost on taxable bonds is reduced by 35% direct federal subsidy
Are there special reporting requirements ?	Election to issue BABs must be made on or before the issue date. Otherwise, same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	BABs must be issued before 1/1/2011
Is there a cap?	No
Where can I find more information?	Section 1531 of ARRTA; Limited Interim Guidance Issued 4/3/2009; US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

~ EXAMPLE ~
**TRADITIONAL TAX-EXEMPT BONDS
 COMPARED WITH
 BUILD AMERICA BONDS (DIRECT PAYMENT)**

Assume a \$10 million financing to fund a new city hall.
 Issued on July 1, 2009
 Equal annual principal payments made over the 10-year term
 Semi-annual interest payments made over the 10-year term

As the example shows, if tax-exempt interest rates were at 5% and taxable BABs rates were 2.69% more, or 7.69%, the issuer would be virtually indifferent between bond types.

Payment Dates	Traditional Tax Exempt Bond			Build America Bond (Direct Pay)				
	Principal	Tax-Exempt Interest @ 5%	Total Amount Issuer Owes the Investor (Net Cost of Debt)	Principal	Taxable BABs Interest @ 7.69%	Total Amount Issuer Owes the Investor	Less 35% of Interest Rec'd From US Treasury	Net Cost of Debt
1/1/2011	\$ -	\$ 250,000	\$ -	\$ -	\$ 384,500	\$ -	\$ 134,575	\$ -
7/1/2011	1,000,000	250,000	1,500,000	1,000,000	384,500	1,769,000	134,575	1,499,850
1/1/2012	-	225,000	-	-	346,050	-	121,118	-
7/1/2012	1,000,000	225,000	1,450,000	1,000,000	346,050	1,692,100	121,118	1,449,865
1/1/2013	-	200,000	-	-	307,600	-	107,660	-
7/1/2013	1,000,000	200,000	1,400,000	1,000,000	307,600	1,615,200	107,660	1,399,880
1/1/2014	-	175,000	-	-	269,150	-	94,203	-
7/1/2014	1,000,000	175,000	1,300,000	1,000,000	269,150	1,538,300	94,203	1,349,895
1/1/2015	-	150,000	-	-	230,700	-	80,745	-
7/1/2015	1,000,000	150,000	1,275,000	1,000,000	230,700	1,461,400	80,745	1,299,910
1/1/2016	-	125,000	-	-	192,250	-	67,288	-
7/1/2016	1,000,000	125,000	1,225,000	1,000,000	192,250	1,384,500	67,288	1,249,925
1/1/2017	-	100,000	-	-	153,800	-	53,830	-
7/1/2017	1,000,000	100,000	1,200,000	1,000,000	153,800	1,307,600	53,830	1,199,940
1/1/2018	-	75,000	-	-	115,350	-	40,373	-
7/1/2018	1,000,000	75,000	1,150,000	1,000,000	115,350	1,230,700	40,373	1,149,955
1/1/2019	-	50,000	-	-	76,900	-	26,915	-
7/1/2019	1,000,000	50,000	1,125,000	1,000,000	76,900	1,153,800	26,915	1,099,970
1/1/2020	-	25,000	-	-	38,450	-	13,458	-
7/1/2020	1,000,000	25,000	1,050,000	1,000,000	38,450	1,076,900	13,458	1,049,985
	\$ 10,000,000	\$ 2,750,000	\$ 12,675,000	\$ 10,000,000	\$ 4,229,500	\$ 14,229,500	\$ 1,480,325	\$ 12,749,175

The table to the right shows the sensitivity to movements in rates and spreads.

- An issuer would choose to issue BABs, for example, if tax-exempt rates moved from 5% to 6% and the spread remained 2.69% (or 269 basis points).
- Conversely, the issuer would choose to issue tax-exempt bonds if the spread between the tax-exempt and taxable rate increased.

Tax Exempt Rate	Spread Between Tax-Exempt and Taxable Rates		Net BABs Interest Cost to Issuer
	BABs Rate		
5.00%	1.69%	6.69%	4.35%
5.00%	2.69%	7.69%	5.00%
5.00%	3.69%	8.69%	5.65%
4.00%	2.69%	6.69%	4.35%
5.00%	2.69%	7.69%	5.00%
6.00%	2.69%	8.69%	5.65%

BUILD AMERICA BONDS (BABs) – TAX CREDIT	
Who can issue these bonds?	Any state or local government; cannot be for private activity and cannot be for not-for-profits
What can they be used for?	For new governmental capital expenditure; can be for refunding outstanding bonds; can be for working capital (Compare with BABs – Direct Pay)
How are they subsidized by the feds?	Federal tax credit to investors equal to 35% of interest payable by issuer on taxable BABs (net of tax credit)
What are the benefits?	Issuers borrow at rates equal to about 74% of comparable taxable rates. Issuer provided with more financing options (eg., refunding) in exchange for lower effective savings when compared to the BAB-Direct Payment option
Are there special reporting requirements?	Election to issue BABs must be made on or before the issue date of the BABs. Otherwise, same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	BABs must be issued before 1/1/2011
Is there a cap?	No
Where can I find more information?	Section 1531 of ARRTA; Limited Interim Guidance Issued 4/3/2009; US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS (BABs – Direct Payment)	
Who can issue these bonds?	State, local governments and/or conduits can issue on behalf of RZEDBs; RZ defined as areas having (i) significant poverty, unemployment, foreclosures, (ii) distressed due to base closure, (iii) designated federal empowerment zone or renewal community
What can they be used for?	RZEDBs may be used to finance certain “qualified economic development purposes” meaning any expenditures for purposes of promoting development or other economic activity in a RZ, including (i) capital expenditures paid or incurred with respect to property located in the RZ, (ii) expenditures for public infrastructure and construction of public facilities, and (iii) job training and educational programs. RZEDB may not be issued to refund outstanding bonds. 100% of proceeds must be used to promote development or other economic activity in a RZ, reasonably required reserve and costs of issuance (up to 2%); cannot be for private activity; cannot be for refunding outstanding bonds.
How are they subsidized by the feds?	Issuer sells taxable bonds and the US Treasury pays the issuer 45% of the interest cost when due. (See example on page 3 to see how it works with a 35% subsidy)
What are the benefits?	Interest cost on taxable bonds is reduced by 45% direct federal subsidy
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	RZEDBs must be issued before 1/1/2011
Is there a cap?	Yes. National cap is \$10 billion which has been allocated to states in proportion that each state's 2008 employment decline bears to all states. See Massachusetts allocation on page 7. Since counties in Massachusetts cannot issue bonds, presumption is that the county allocations will be allocated to the Commonwealth for further re-allocation for recovery zones in those counties
Where can I find more information?	Section 1401 of ARRTA; Guidance Issued 6/12/2009; US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html

RECOVERY ZONES FACILITY BONDS	
Who can issue these bonds?	State, local governments and/or conduits can issue on behalf of RZEDBs; RZ defined as areas having (i) significant poverty, unemployment, foreclosures, (ii) distressed due to base closure, (iii) designated federal empowerment zone or renewal community
What can they be used for?	Qualified private activity; 95% of net proceeds must be used for RZ property: (i) must be depreciable (no land), (ii) must be constructed or acquired after date of designation of RZ; property must be used in active conduct of a business (not 'sin' business)
How are they subsidized by the feds?	Bonds are tax-exempt
What are the benefits?	Expands the definition of permissible private activity bonds
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	RZFBs must be issued before 1/1/2011
Is there a cap?	Yes. National cap is \$15 billion which has been allocated to states in proportion that each state's 2008 employment decline bears to all states. See Massachusetts allocation on page 7. Since counties in Massachusetts cannot issue bonds, presumption is that the county allocations will be allocated to the Commonwealth for further re-allocation for recovery zones in those counties
Where can I find more information?	Section 1401 of ARRTA; Guidance was expected in May; US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

Recovery Zone Bonds Allocation

	RZEDB	RZFB
Massachusetts	222,676,000	334,013,000
Boston	17,992,000	26,988,000
Cambridge	3,480,000	5,220,000
Lowell	3,023,000	4,534,000
Springfield	4,644,000	6,966,000
Worcester	5,678,000	8,518,000
	<u>34,817,000</u>	<u>52,226,000</u>
Barnstable	5,702,000	8,554,000
Berkshire	3,817,000	5,725,000
Bristol	26,801,000	40,202,000
Dukes	626,000	938,000
Essex	23,084,000	34,625,000
Franklin	2,469,000	3,704,000
Hampden	11,441,000	17,162,000
Hampshire	6,527,000	9,790,000
Middlesex	40,468,000	60,702,000
Natucket	1,086,000	1,629,000
Norfolk	22,046,000	33,069,000
Plymouth	17,123,000	25,684,000
Suffolk	3,074,000	4,611,000
Worcester	23,595,000	35,392,000
	<u>187,859,000</u>	<u>281,787,000</u>
	<u><u>222,676,000</u></u>	<u><u>334,013,000</u></u>

* Allocations for Hampden, Middlesex, Suffolk and Worcester Counties do not include amounts allocated to Springfield, Cambridge, Lowell, Boston, and Worcester, respectively.

QUALIFIED SCHOOL CONSTRUCTION BONDS	
Who can issue these bonds?	State or political subdivision, large local educational agencies (LLEA) or other entity empowered to issue bonds for this purpose
What can they be used for?	100% of proceeds are to be used for construction, rehabilitation or repair of a public school facility or for acquisition of land on which such facility will be constructed with a portion of QSCB proceeds
How are they subsidized by the feds?	QSCBs are taxable, with tax credit payable by US Treasury to investor. Maximum maturity and credit rate are determined by US Treasury on date of sale
What are the benefits?	0% interest cost SEE EXAMPLE ON FOLLOWING PAGE
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	2009 allocation is good through 1/1/2010
Is there a cap?	Yes. FY09 and FY10 national cap is \$11 billion; \$144.8 million allocated to Mass; \$37.6 million to Boston (LEA); \$17.9 to Springfield (LEA). Balance and unused (LEA) amounts to be reallocated by state
Where can I find more information?	Section 1521 of ARRTA; Interim guidance issued 4/3/2009. US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

~ EXAMPLE ~
**TRADITIONAL TAX-EXEMPT BONDS
 COMPARED WITH
 QUALIFIED SCHOOL CONSTRUCTION BONDS (QSCBs)**

Tax-Exempt Borrowing Rate 5.00%
 Equivalent Taxable Rate 7.69% (assumes 35% tax rate)

	Municipal Bond	Tax Credit Bond
Yield to Purchaser		
Coupon paid by Issuer	5.00%	0.00%
Tax Credit paid by Fed Gov't	0.00%	7.69%
Tax Liability	0.00%	-2.69%
Net Yield to Investor	5.00%	5.00%
Budget Impact Comparison		
Principal	\$1,000,000	\$1,000,000
Term	20	15
Debt Service	Level Principal	Interest w/Sinking Fund* @2.5% Interest
Total Payments over Term	\$1,512,500	\$830,357
% Savings		45%
Avg. Annual Pmt. over Term	\$75,625	\$55,357
Present Value Cost	\$1,000,000	\$579,320
% Savings		42%

**assumption for analysis purposes only; use of sinking fund may require a statutory exemption*

QUALIFIED ZONE ACADEMY BONDS	
Who can issue these bonds?	State or local government that designates obligations as QZABs; received commitment from private entities to made contributions of property and/or services equal to 10% of QZAB proceeds. 35% or students must be eligible for free or reduced cost lunch
What can they be used for?	Rehabilitation or repair of a public school facility, equipment, developing course materials or training. Requires proof of commitments by private entity
How are they subsidized by the feds?	QZABs are taxable, with tax credit payable by US Treasury to investor. Maximum maturity and credit rate are determined by US Treasury on date of sale
What are the benefits?	0% interest cost
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	QZABs introduced in 1997; funded \$400 million annually through 2007; presumption is that it will continue indefinitely
Is there a cap?	Yes. National allocation increased to \$1.4 billion in both FY09 and FY10. Mass allocation is \$21.752 million. Allocations are made based on states' respective populations below the poverty line and other criteria
Where can I find more information?	Section 1522 of ARRTA; Guidance issued 4/3/2009. US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

NEW CLEAN RENEWABLE ENERGY BONDS	
Who can issue these bonds?	Governmental body; public power provider; cooperative electric company. Applications for funding must be made directly to US Treasury
What can they be used for?	Qualified renewable energy facilities; wind; closed loop biomass; geothermal or solar; small irrigation power facility; land fill gas facility; trash combustion facility; qualified hydropower facility; marine and hydrokinetic renewable energy facility
How are they subsidized by the feds?	CREBs are taxable, with tax credit payable by US Treasury to investor. Maximum maturity and credit rate are determined by US Treasury on date of sale
What are the benefits?	0% interest cost
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	CREBs introduced in 2005; presumption is that it will continue indefinitely
Is there a cap?	Yes. National allocation increased to \$2.4 billion in both FY09 and FY10, with the following each getting one-third: state and local governments, public power projects, electric coops
Where can I find more information?	Section 1111 of ARRTA; Guidance issued 4/3/2009. US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

QUALIFIED ENERGY CONSERVATION BONDS	
Who can issue these bonds?	State or local government or conduit issuer
What can they be used for?	Qualified conservation purpose, including projects to reduce energy consumption in publicly-owned buildings, implementing green community programs, commuting facilities to reduce energy consumption and pollution, demonstration projects and educational campaigns. 70% of allocation cannot be private activity. 100% of the portion that is private activity must be capital expenditures
How are they subsidized by the feds?	QECBs are taxable, with tax credit payable by US Treasury to investor. Maximum maturity and credit rate are determined by US Treasury on date of sale
What are the benefits?	0% interest cost
Are there special reporting requirements?	Same information requirements as tax-exempt state or local government bonds
How long will these bonds be available?	Presumption is that it will continue indefinitely
Is there a cap?	Yes. National allocation increased to \$3.2 billion in both FY09 and FY10
Where can I find more information?	Section 1112 of ARRTA; Guidance issued 4/3/2009. US Treasury website http://www.irs.gov/newsroom/article/0,,id=206044,00.html
What else should I know?	Check back with mass.gov/recovery for updates

Summary of ARRTA Provisions Designed to Enhance Marketability of Tax-Exempt Bonds

ARRTA Section and Description	Provision
<p>1501 De minimis safe harbor exception for tax-exempt interest expense of financial institutions.</p>	<p>Provides new incentives for banks to purchase all types of tax-exempt bonds. Since 1986, banks have been able to deduct only the carrying costs of bank-qualified bonds. ARRTA allows banks to deduct 80% of the carrying costs of purchasing all types of newly issued bonds in 2009 and 2010; to the extent investment in the bonds does not exceed 2% of the bank's total assets.</p>
<p>1502 Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions</p>	<p>Increases the small issuer exception to \$30 million from its current \$10 million level. This will allow smaller governments to place their debt directly with community or other banks who in turn can deduct 80% of the purchasing costs for bonds issued in 2009 and 2010. 501(c)(3) organizations can be treated as "qualified small issuers".</p>
<p>1503 Temporary modification of alternative minimum tax limitations on tax-exempt bonds</p>	<p>Eliminates application of the AMT on private activity and governmental bonds. The interest on certain private activity bonds is not deductible for individuals and corporations who must pay the alternative minimum tax (AMT). The ARRTA eliminates the application of the AMT on all bonds issued in 2009 and 2010, including refunding of bonds that were initially issued after 2003.</p>
<p>1541 Regulated investment companies allowed to pass-thru tax credit bond credits</p>	<p>Permits mutual funds to pass through tax credit bond credits (established or increased by ARRTA) to mutual fund owners/investors. Intended to increase marketability.</p>